IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1178 of 2006

MESCO Airlines Limited .. Petitioner

versus

Abhay Maheshwari .. Respondent

...

Mr.G.W. Mattos for the petitioner.

Mr.P.O. Verghese for respondent

**CORAM : D.G. KARNIK, J**

**DATED : 11th July 2006.**

**ORAL JUDGEMENT:**

1. Rule.

2. By consent, rule is made returnable forthwith. Heard counsel for the parties.

3. By this petition, petitioner challenges the

judgement and order dated 6th September 2005 passed by the Labour Court Mumbai dismissing the petitioners' preliminary objection about its jurisdiction to entertain and try the dispute.

4. The petitioner is an Air Transport Company possessing licence to operate "non-scheduled air transport service" granted by the Director General of Civil Aviation under the Aircraft Rules,1937. The respondent who was employed is an air craft maintenance engineer by the petitioner resigned his services with effect from 26th December 2001. According to the respondent, six months salary due to him was not paid by the petitioner. He therefore applied to the Labour Court consttituted by the Government of Maharashtra (for short "the State Labour Court") u/s.33(c)(2) of the Industrial Disputes Act (for short 'the Act') for recovery of the salary of the six months. The petitioner objected to the jurisdiction of the Labour Court and contended that in respect of the petitioner's industry, the appropriate Government was the Central Government and therefore, the only Labour Court constituted by Central Government had the jurisdiction to entertain and try the application. The State Labour Court accordingly framed a preliminary issue whether

the Central Government was the appropriate Government in respect of the petitioner's industry and whether the State Labour Court had the jurisdiction to entertain and try the application. By an order dated 6th September 2005, the State Labour Court came to the conclusion that appropriate Government in respect of the petitioner's industry was the State Government and therefore the State Labour Court had jurisdiction to entertain and try the application. That judgement is impugned in this petition.

5. Section 7 of the Act empowers the appropriate Government, by a notification in the official gazette, to constitute one or more Labour Courts for adjudication of industrial disputes. Accordingly, Government of Maharashtra has constituted State Labour Court to try industrial disputes arising in the industries in respect of the Government of Maharashtra is the appropriate Government. Similarly, Central Government has also constituted separate Labour Courts to try industrial disputes arising in the industries for which the Central Government is the appropriate Government. The Labour Courts constituted by the Central Government are hereinafter referred to as 'Central Labour Courts'. Reading of section 7 makes it

clear that there are two separate sets of Labour Courts, one in respect of the industries in respect of which the State Government is the appropriate Government and others in respect of which the Central Government is the appropriate Government.

6. In order to find out which is the appropriate Labour Court for the purpose of the petitioner's industry, it would be necessary to refer to the definition of appropriate Government given in section 2(a) which reads :

> 2(a) "appropriate Government" means
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> (i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning a Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948(9 of 1948) or the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956) or the Employees' State Insurance Corporation established under section 3 of the Employees' State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees' Provident

> Fund and Miscellaneous Provisions Act, 1952 (19 of 1952) or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956), or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporation of India established under section 3, or a Board of Management established for two or more contiguous States under section 16, of the Food Corporations Act, 1964 (37 of 1964), or the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994), or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India Limited, the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987) or an air transport service, or a banking or an insurance company, a mine, an oil field, a Cantonment Board, or a major port, the Central Government and,
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> (ii) in relation to any other industrial dispute, the State Government;

7. Sub-clause(i) of clause (a) of section 2 is divided into two parts. The first part gives list of industries in respect of which the Central Government would be regarded as an appropriate Government. The

second part is a residuary part and says that in respect of all other industries the appropriate Government would be the State Government. Sub-clause (i) of clause (a) of section 2 provides that in relation to an industrial dispute concerning any industry carried by or under the authority of Central Government, or by a railway company or concerning any such control industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning "an air transport service", the appropriate Government would be the Central Government. Various kinds of industries named in sub-clause (i) of clause (a) are connected by the conjunction "or". "Or" is ordinarily used disjunctively. In the present case also the word "or" is used disjunctively; different industries which are not connected with each other are connected by the word "or". Each of the industry mentioned in the clause must therefore be read separately. The industry of "air transport service" which is specifically included in sub-clause (i) of clause (a), in my view, must be read separately from the other industries mentioned in the clause. So read in respect of an "air transport service", the appropriate Government would be the Central

Government.

8. There is no dispute between the parties that petitioner is an "Air transport service". A copy of the licence issued by the Director General of Civil Aviation to the petitioner (bearing permit no.1/93) was produced on record before the Labour Court and a copy thereof is also filed in this Court. The licence specifically states that the petitioner is permitted to operate "air transport service" other than the scheduled air transport service, under Rule 134(3) of the Aircraft Rules, 1937. Therefore, in respect of the industry carried out by the petitioner, the appropriate Government is the Central Government. The appropriate Labour Court in respect of the petitioner industry would therefore be the Central Labour Court and not the State Labour Court.

9. Learned counsel for the respondent referred to the statements of objects and reasons for the Central Act 24 of 1996, whereby the words "an air transport service" were introduced in sub-clause (i) of clause (a) of section 2 of the Act. In my view, when the meaning of a statute is clear, it is not necessary to refer to the statement of objects and reasons. It is

only where there is any ambiguity as to the meaning of the words used in the statute or where two interpretations are possible, it is permissible to look into the statements of objects and reasons to see what mischief was sought to be curtailed by the statute or the amendment. In the present case, meaning of sub-clause (i) of clause (a) of section 2 of the Act is clear and amidts of no interpretation other than the one that in respect of an "air transport service", Central Government is the appropriate Government. It is therefore not necesary to refer to the statement of objects and reasons of the amending Act.

10. For these reasons, petition is allowed. It is held that State Labour Court had no jurisdiction to entertain and try the dispute. is made absolute, with costs.

**(D.G. KARNIK, J)**